

1.0 INTRODUCTION

This document is an Environmental Impact Report (EIR) that examines the potential environmental effects of the proposed grading and stormwater management amendments. The project's background, as well as the legal basis for preparing an EIR, is described below.

1.1 PURPOSE AND LEGAL AUTHORITY

The implementation of the proposed grading and stormwater management amendments requires the discretionary approval of the San Luis Obispo County Board of Supervisors. Therefore, the proposed ordinances are subject to the requirements of the California Environmental Quality Act (CEQA). In accordance with Section 15121 of the State of California Environmental Quality Act (CEQA) Guidelines, the purpose of this EIR is to serve as an informational document that:

"...will inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project..."

This document is a Program EIR. Section 15168(a) of the CEQA Guidelines outlines the program EIR process as follows:

"(A) General. A program EIR is an EIR which may be prepared on a series of actions that can be characterized as one large project and are related either:

- (1) Geographically;*
- (2) As logical parts in a chain of contemplated actions;*
- (3) In connection with issuance of rules, regulations, plans, or other general criteria to govern the conduct of a continuing program; or*
- (4) As individual activities carried out under the same authorizing statutory or regulatory authority and having generally similar environmental effects which can be mitigated in similar ways.*

(B) Advantages. Use of a program EIR can provide the following advantages. The program EIR can:

- (1) Provide an occasion for a more exhaustive consideration of effects and alternatives than would be practical in an EIR on an individual action,*
- (2) Ensure consideration of cumulative impacts that might be slighted in a case-by-case analysis,*
- (3) Avoid duplicative reconsideration of basic policy considerations,*



- (4) Allow the Lead Agency to consider broad policy alternatives and program-wide mitigation measures at an early time when the agency has greater flexibility to deal with basic problems or cumulative impacts, and*
- (5) Allow reduction in paperwork.*
- (C) Use with Later Activities. Subsequent activities in the program must be examined in the light of the program EIR to determine whether an additional environmental document must be prepared.*
 - (1) If a later activity would have effects that were not examined in the program EIR, a new Initial Study would need to be prepared leading to either an EIR or a Negative Declaration.*
 - (2) If the agency finds that pursuant to Section 15162, no new effects could occur or no new mitigation measures would be required, the agency can approve the activity as being within the scope of the project covered by the program EIR, and no new environmental document would be required.*
 - (3) An agency shall incorporate feasible mitigation measures and alternatives developed in the program EIR into subsequent actions in the program.*
 - (4) Where the subsequent activities involve site specific operations, the agency should use a written checklist or similar device to document the evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR.*
 - (5) A program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. With a good and detailed analysis of the program, many subsequent activities could be found to be within the scope of the project described in the program EIR, and no further environmental documents would be required."*

This report is to serve as an informational document for the public and County of San Luis Obispo decision-makers. The process will culminate with the County Planning Commission and County Board of Supervisors hearings to consider certification of a Final EIR and a decision on whether to approve the proposed Grading and Stormwater Management Ordinances.

1.2 SCOPE AND CONTENT

In accordance with the State CEQA Guidelines, a Notice of Preparation (NOP) was distributed for review by affected agencies and the public. The NOP and responses to the NOP are presented in Appendix A of this report.

This EIR addresses the issues determined to be potentially significant by the responses to the NOP, and scoping discussions among the public, consulting staff, and the County. The issues addressed in this EIR include:



- *Agricultural Resources*
- *Air Quality*
- *Biological Resources*
- *Cultural Resources*
- *Hydrology and Water Quality*
- *Geologic hazards*
- *Noise*
- *Public Services and Utilities*
- *Transportation and Circulation*
- *Water Resources*
- *Growth Inducement*

This EIR addresses the issues referenced above and identifies potentially significant environmental impacts, including site-specific and cumulative effects of the proposed grading and stormwater management amendments in accordance with the provisions set forth in the State CEQA Guidelines. In addition, the EIR recommends mitigation measures that would reduce or eliminate adverse environmental effects.

In preparing the EIR, use was made of pertinent County policies and guidelines, existing EIRs and background documents prepared by the County. A full bibliography and reference list are contained in Section 7.0, *References and Preparers*, of this EIR.

The Alternatives Section of the EIR was prepared in accordance with Section 15126.6 of the State CEQA Guidelines. It also identifies the "environmentally superior" alternative among the alternatives assessed. The County considered five alternatives. Alternatives analyzed in this EIR include:

- *Alternative 1: No Project Alternative.*
- *Alternative 2: Additional Agricultural Exemptions.*
- *Alternative 3: More restrictive Agricultural Exemptions.*
- *Alternative 4: Not modifying Agricultural Exemptions in the Coastal Zone or adding the Alternative Review Program to the Coastal Zone*
- *Alternative 5: Excluding 30% slope limitation in the inland ordinance*

The level of detail contained throughout this EIR is consistent with the requirements of CEQA and applicable court decisions. The State CEQA Guidelines provide the standard of adequacy on which this document is based. The State CEQA Guidelines state:

"An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of the proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection, but for adequacy, completeness, and a good faith effort at full disclosure." (Section 15151).



1.3 LEAD, RESPONSIBLE AND TRUSTEE AGENCIES

The State CEQA Guidelines define “lead,” “responsible” and “trustee” agencies. The County of San Luis Obispo is the lead agency for the project because it has the principal responsibility for approving the project.

A “responsible agency” refers to a public agency other than the “lead agency” that has discretionary approval over the project. California Department of Transportation may be a responsible agency for the proposed project since they have approval authority over state roadways that may be impacted.

A “trustee agency” refers to a state agency having jurisdiction by law over natural resources affected by a project. The State Department of Fish and Game may be a trustee agency for the project due to the biological resource issues associated with County Creeks that may be impacted.

1.4 HOW TO USE THIS DOCUMENT

As discussed in subsection 1.1 of the Introduction, this document is a Program EIR. A Program EIR, prepared in connection with a plan or continuing program such as a local general plan element, necessarily deals with issues on a level of broad generalities, and due to the nature of the project is not as detailed as an EIR on a specific construction project. The program-level analysis addresses the probable environmental impacts of basic policies and programs, general cumulative effects, and programmatic mitigation measures and alternatives. Potential effects associated with development accommodated by the ordinances can be predicted and analyzed in more detail, but the analysis is limited by the absence of specific development proposals in most cases.

The proposed project consists of modifications to the Land Use Ordinance, Coastal Zone Land Use Ordinance, Coastal Plan Policies, and North Coast Area Plan in order to implement three Best Management Practices (BMPs) identified in the County’s Stormwater Management Program (SWMP). These modifications are intended to strengthen existing measures designed to prevent pollution of stormwater both during and after construction.

The environmental impacts of this proposal are assessed at a “program” level of detail. This level of detail is more conceptual and general, because site-specific development plans or other project-level details are not available. A precise project-level environmental analysis of affected properties would be speculative:

- It cannot be ascertained with certainty which or how many affected property owners would implement projects in accordance with the proposed Grading and Stormwater Management Ordinances.
- The extent or nature of physical disturbance that would occur in such cases is unknown.



As a result, this document does not accommodate individual project approval. Rather, the Program EIR is intended to serve as a first tier environmental document for future development in accordance with the Grading and Stormwater Management Ordinances. As future development projects are proposed in accordance with the Grading and Stormwater Management Ordinances, additional project-level environmental review pursuant to CEQA may be required.

It should be noted, however, that the intent of the proposed project is to promote water quality by requiring that projects be designed to minimize contamination to stormwater to the maximum extent practicable. Ordinance requirements already exist requiring grading permits, drainage plans, and erosion and sedimentation control plans for certain types of projects. The proposed revisions would strengthen these existing standards. These revisions will not authorize an increase in intensity of development beyond what is already allowed under current codes and ordinances. Thus this proposal would not induce or accommodate growth beyond what is already envisioned under the General Plan.

1.5 AREAS OF CONTROVERSY

Pursuant to State CEQA Guidelines § 15123(b)(2), this EIR acknowledges the areas of controversy and issues to be resolved which are known to the County of San Luis Obispo or were raised during the scoping process. A Notice of Preparation (NOP) was prepared and circulated for a review period that began on July 2, 2009 and ended August 1, 2009. NOP comment letters and a summary of the comments are included in Appendix A of this EIR.

Primary environmental areas of concern raised by the commenting agencies and public include:

- *Cultural resources and compliance with Senate Bill 18 Native American consultation requirements.*
- *Drainage and flood hazards.*
- *Compliance with State Water Resources Control Board and Regional Water Quality Control Board requirements.*

1.6 ENVIRONMENTAL REVIEW PROCESS

The major steps in the environmental review process, as required under CEQA, are outlined below. The steps are presented in sequential order.

- 1. Notice of Preparation (NOP) Distributed.** Immediately after deciding that an EIR is required, the lead agency must file a NOP soliciting input on the EIR scope to "responsible," "trustee," and involved federal agencies; to the State Clearinghouse, if one or more state agencies is a responsible or trustee agency; and to parties previously requesting notice in writing (*CEQA Guidelines* Section 15082; Public Resources Code Section 21092.2). The NOP must be posted in the County Clerk's office for 30 days. A scoping meeting to solicit public input on the issues to be assessed in the EIR is not required, but may be conducted by the lead agency. The



NOP for the proposed project was posted and distributed from July 2, 2009 to August 1, 2009. A public scoping meeting was held on July 30, 2009.

2. **Draft Environmental Impact Report (DEIR) Prepared.** The DEIR must contain: a) table of contents or index; b) summary; c) project description; d) environmental setting; e) significant impacts (direct, indirect, cumulative, growth-inducing and unavoidable impacts); f) alternatives; g) mitigation measures; and h) irreversible changes.
3. **Public Notice and Review.** A lead agency must prepare a Public Notice of Availability of an EIR. The Notice must be placed in the County Clerk's office for 30 days (Public Resources Code Section 21092). The lead agency must send a copy of its Notice to anyone requesting it (*CEQA Guidelines* Section 15087). Additionally, public notice of DEIR availability must be given through at least one of the following procedures: a) publication in a newspaper of general circulation; b) posting on and off the project site; and c) direct mailing to owners and occupants of contiguous properties. The lead agency must consult with and request comments on the DEIR from responsible and trustee agencies, and adjacent cities and counties (Public Resources Code Sections 21104 and 21253). The minimum public review period for a DEIR is 30 days. When a DEIR is sent to the State Clearinghouse for review, the public review period must be 45 days unless a shorter period is approved by the Clearinghouse (Public Resources Code 21091). Distribution of the DEIR may be required through the State Clearinghouse (*CEQA Guidelines* Section 15305).
4. **Notice of Completion.** A lead agency must file a Notice of Completion with the State Clearinghouse as soon as it completes a DEIR.
5. **Final EIR (FEIR).** A FEIR must include: a) the DEIR; b) copies of comments received during public review; c) list of persons and entities commenting; and d) responses to comments.
6. **Certification of FEIR.** The lead agency shall certify: a) the FEIR has been completed in compliance with CEQA; b) the FEIR was presented to the decision-making body of the lead agency; and c) the decision-making body reviewed and considered the information in the FEIR prior to approving a project (*CEQA Guidelines* Section 15090).
7. **Lead Agency Project Decision.** A lead agency may: a) disapprove a project because of its significant environmental effects; b) require changes to a project to reduce or avoid significant environmental effects; or c) approve a project despite its significant environmental effects, if the proper findings and statement of overriding considerations are adopted (*CEQA Guidelines* Sections 15042 and 15043).
8. **Findings/Statement of Overriding Considerations.** For each significant impact of the project identified in the EIR, the lead or responsible agency must find, based on substantial evidence, that either: a) the project has been changed to avoid or



substantially reduce the magnitude of the impact; b) changes to the project are within another agency's jurisdiction and such changes have or should be adopted; or c) specific economic, social, or other considerations make the mitigation measures or project alternatives infeasible (*CEQA Guidelines* Section 15091). If an agency approves a project with unavoidable significant environmental effects, it must prepare a written Statement of Overriding Considerations that set forth the specific social, economic or other reasons supporting the agency's decision.

9. **Mitigation Monitoring/Reporting Program.** When an agency makes findings on significant effects identified in the EIR, it must adopt a reporting or monitoring program for mitigation measures that were adopted or made conditions of project approval to mitigate significant effects.
10. **Notice of Determination.** An agency must file a Notice of Determination after deciding to approve a project for which an EIR is prepared (*CEQA Guidelines* Section 15094). A local agency must file the Notice with the County Clerk. The Notice must be posted for 30 days and sent to anyone previously requesting notice. Posting of the Notice starts a 30-day statute of limitations on CEQA challenges (Public Resources Code Section 21167[c]).

1.7 BACKGROUND AND RELATIONSHIP TO OTHER DOCUMENTS

The proposed Grading and Stormwater Management Ordinances are described in Section 2.0, *Project Description*. These revisions involve modifications to the Land Use Ordinance, Coastal Zone Land Use Ordinance, Coastal Plan Policies, and North Coast Area Plan pertaining exclusively to grading, drainage, erosion and sedimentation control, and stormwater management. The proposed ordinance would not increase, reduce, or otherwise modify any existing policies, programs, or standards which regulate allowed land uses or development density or intensity.

As such, this document will consider solely those impacts associated with this project. Impacts related to buildout under existing provisions of the General Plan and County Code are not considered under this document, unless the magnitude of those impacts will be affected by this project. *Black Property Owners v. City of Berkeley* establishes that any policies which are not being changed by the amendment need not be analyzed under an EIR. Rather, the EIR should focus on the *changes* to the policies which are proposed for the project. Consistent with the ruling under *Environmental Planning and Information Council v. County El Dorado*, the impact of these changes, described in Section 2.0, *Project Description*, will be considered against existing environmental conditions, described in Section 3.0, *Environmental Setting*, to determine the potential for and severity of impacts.



1.8 GLOSSARY OF ACRONYMS

ACOE	Army Corps of Engineers
AGP	Agriculture Element Policy
ALUP	Airport Land Use Plan
APCD	Air Pollution Control District
APN	Assessor's Parcel Number
ATCM	Air Toxic Control Measure
BMP	Best Management Practices
CAP	Clean Air Plan
CARB	California Air Resources Board
CBACT	Best Available Control Technology
CBC	California Building Code
CDFG	California Department of Fish and Game
CDMG	California Division of Mines and Geology
CE	California Endangered
CEQA	California Environmental Quality Act
CFP	California Fully Protected Species
CNDDB	California Natural Diversity Database
CNEL	Community Noise Equivalent Level
CNPS	California Native Plant Society
CO	Carbon Monoxide
COSE	Conservation and Open Space Element (Draft)
CPP	Coastal Plan Policies
CSC	California Species of Special Concern
CWA	Clean Water Act
CZ	Coastal Zone
CZLUO	Coastal Zone Land Use Ordinance (Title 23 of the County Code)
dB	Decibels
DCIA	Directly Connected Impervious Areas
DEIR	Draft Environmental Impact Report
EIR	Environmental Impact Report
EPA	Environmental Protection Agency
ESA	Environmental Site Assessment
ESHA	Environmentally Sensitive Habitat Area
FAC+	Facultative+ Wetland Species
FACW	Facultative Wetland
FC	Federal Candidate
FE	Federal Endangered
FEIR	Final Environmental Impact Report
FEMA	Federal Emergency Management Agency
FICON	Federal Interagency Committee on Noise
FIRM	Federal Emergency Management Agency Flood Insurance Rate Map
FOTG	Field Operations Technical Guide, prepared by NRCS
FPE	Federal Proposed Endangered
FSC	Federal Species of Concern
LAFCO	Local Agency Formation Commission
LCP	Local Coastal Program
Ldn	Day-Night Average Level
Leq	Equivalent Noise Level
LID	Low Impact Development
LOMR	Letter of Map Revision (Federal Emergency Management Agency)
LUE	General Plan Land Use Element
LUO	Land Use Ordinance (Title 22 of the County Code)
MBTA	Migratory Bird Treaty Act



MCLs	Maximum Contaminant Levels
MLD	Most Likely Descendent
MS4	Municipal Separate Storm Sewer System
MSL	Mean Sea Level
NAHC	Native American Heritage Commission
NCAP	North Coast Area Plan
ND	Negative Declaration
NMFS	National Marine Fisheries Service
NOA	Naturally Occurring Asbestos
NOI	Notice of Intent
NOP	Notice of Preparation
NO _x	Nitrogen Oxides
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service
OBL	Obligate Wetland Species
OS	Open Space
OSP	Open Space Element Policy
PCE	Tetrachloroethylene
PM ₁₀	10 Micron Suspended Particulates
PM _{2.5}	2.5 Micron Suspended Particulates
RCD	Resource Conservation District
ROC	Reactive Organic Carbon
ROG	Reactive Organic Gases
RWQCB	Regional Water Quality Control Board
SAY	Safe Annual Yield (Water Resources)
SLO	San Luis Obispo
SO ₂	Sulfur Dioxide
SO _x	Sulfur Oxides
SWMP	Stormwater Management Program
SWPPP	Stormwater Pollution Prevention Plan
SWQP	Stormwater Quality Plan
SWRCB	State Water Resources Control Board
TCM	Transportation Control Measure
TMDL	Total Maximum Daily Load
UBC	Uniform Building Code
UCSB	University of California, Santa Barbara
US101	U.S. Highway 101
USACE	U.S. Department of the Army, Corps of Engineers
USDA	U.S. Department of Agriculture
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
WPA	Water Planning Area
WRF	Water Reclamation Facility

